

LAW LIBRARY OF CONGRESS
RIGHTS OF PEOPLE WITH DISABILITIES

INDIA

SUMMARY

Under the Constitution of India, matters of welfare of the general public as well as of disabled persons are subjects of state legislation. However, in 1992, India signed the Resolution of the United Nations Economic and Social Commission for the Asian and Pacific Region in which the signatories resolved that each country enact legislation ensuring equal rights of the disabled. This international commitment authorized India to pass the national **The Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act 1995 (No. 1 of 1996)** ("PDA 1995"). The statute incorporates the UN standards. It focuses mainly on prevention of disabilities, integration into the mainstream of society, and public programs for rehabilitation. However, the act also prohibits abuse and neglect of the disabled and offers avenues to seek recourse against violations. The states are obligated to implement the PDA 1995 and to administer the federal programs to serve legislative mandates. In addition, several states passed supplementary legislation.

Scope of Coverage.

The PDA 1995 and supplemental state statutes apply to public and private employers and to all disabled persons. Most provisions set forth public policies and regulate public programs on specific benefits for the disabled. In particular the PDA1995 governs:

- Preventive health care;
- Public welfare and social security for the disabled;
- Access to education by reserving 3% of class seats for disabled children;
- Education free of cost until the age of 18 years and special educational institutions;
- 3%-quota of public employment and record keeping of employment;
- Job protection for incumbents but not applicants;
- Access to publicly funded recreation and other publicly funded accommodations;
- Tax and other financial incentives to establish businesses;
- Access to transportation and safety of disabled in public places;
- Implementation of the PDA 1995;
- Legal enforcement and remedies.

Legislative Objective:

Notwithstanding the act's terminology of protection against discrimination, the provisions of the PDA1995 are predominantly **service** oriented. The act encourages the Federal

and state governments to work together with NGOs and private organization to prevent disabilities and to provide basic living conditions for disabled persons to integrate them into society. This is mainly achieved through public and private programs, spanning the gamut from education of children free of cost, to financial incentives for businesses creating jobs for the disabled. To this end the PDA 1995

- Defines ‘disability’ as
 - “no less than 40% impairment of vision and hearing
 - leprosy-cured
 - locomotor disability
 - mental retardation and mental illness;
- Provides for a wide range of public or publically funded programs;
- Provides for interdepartmental coordination; and
- Provides for affirmative actions by the government;

Public Policy Implementation.

The PDA 1995 established two organizations to assist in implementing the act’s objectives:

- **Coordination Committee**
 - federal and state
 - assists in developing policies,
 - monitors and evaluates impact of policies and government plans
 - promotes public awareness and participation;
- **Disability Commission**
 - supervises compliance with the Act,
 - monitors use of public funds for the disabled, and
 - serves as first line enforcement office.

Enforcement and Remedies.

The PDA 1995 created the office of the Disability Commissioner to

- Exercise quasi-judicial powers:
 - investigate allegations of violations,
 - monitor use of public funds for programs for the disabled,
 - deny provider public assistance funds
 - sue violator in court, and
 - levy some fines.
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In addition, the disabled may file in court against all who denied

- Mandatory accommodations, such as access to public transportation, or admission to part-time schooling, or equipment;
- Any affirmative action, such as discounted rates when establishing a business, allotment of land, or failure to provide preventive healthcare or rehabilitation center.

With regard to remedies, the PDA 1995 empowers the Commissioner to withhold public funds, or issue a cease and desist order. Fraudulent claims of benefits for the disabled carry imprisonment or fines up to 20,000 Rupees.